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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/324,601	06/02/1999	STEVEN C. ROBERTSON		1766

49701 7590 05/09/2006

PATRICK M. DWYER PC
1818 WEST LAKE AVENUE N
SUITE 114
SEATTLE, WA 98109-2707

EXAMINER

FADOK, MARK A

ART UNIT	PAPER NUMBER
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3625

DATE MAILED: 05/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/324,601	ROBERTSON, STEVEN C.	
	Examiner	Art Unit	
	Mark Fadok	3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 13 October 2005 and 29 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 23-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 23-37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|-----------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

In view of the appeal brief filed on 10/13/2005, PROSECUTION IS HEREBY REOPENED. New grounds for rejection are set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(a) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or

(b) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

Applicant is also directed to Office action mailed 12/29/2005 which suspended prosecution.

Claim Rejections - 35 USC § 102

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 23-37 are rejected under 35 U.S.C. 102(e) as being anticipated by Gillen et al. (7,010,512).

In regards to claims 23-37, Gillin teaches all the elements of the instant claims. For instance, Gillen discloses a method is disclosed involving acquiring a plurality of charge accounts. The accounts are of a type normally issued with an associated physically producible card which may be presented as evidence of an existing charge

account, the physically producible cards bearing human readable account numbers and expiration dates. The plurality of charge accounts are capable of being gifted to a party, after acquisition. A request is received from a first party to gift a charge account to a second party having a name, without both the issuance and provision of a physical card for the charge account to the second party. The first party and the second party are different from each other. The charge account is usable in the name of the second party at any merchant who is capable of seeking authorization, using an authorization infrastructure, for purchases involving charge accounts for which the physically producible cards are issued, whether or not the physical cards evidencing the accounts are presented by purchasers when a purchase is made. An account parameter, selected by the first party, is accepted. The second party is informed of the account, by sending an e-mail to the second party. The e-mail contains a greeting selected by the first party and directs the second party to perform a specified action in order to cause an activation of the account. The account is activated for usage by the second party according to the account parameter. An indication that the second party has made a purchase from a merchant using the account is received and a settling transaction involving the account is undertaken after the usage by the second party. A system is also disclosed having a database with at least one table and a processor coupled to the database. The database is configured to, under control of the processor, maintain a record of a payment card account registered to a first person at the request of a second person, and for which, at no time at or before a time the second person buys from a merchant and provides payment by referencing the payment card account, no physical

card for the payment card account will have been provided to the second person (abstract).

Response to Arguments

Applicant's arguments with respect to claim 23-37 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Mark Fadok** whose telephone number is **(571) 272-6755**. The examiner can normally be reached Monday thru Thursday 8:00 AM to 5:00 PM.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the **receptionist** whose telephone number is **(571) 272-3600**.

Any response to this action should be mailed to:

Commissioner for Patents

P.O. Box 1450

Alexandria, Va. 22313-1450

or faxed to:

(571) 273-8300 [Official communications; including

After Final communications labeled

"Box AF"]

(571) 273-6755 [Informal/Draft communications, labeled

"PROPOSED" or "DRAFT"]

A handwritten signature in black ink, appearing to read 'Mark Fadok', with a stylized, flowing script.

Mark Fadok

Primary Examiner